

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

| | | |
|---|---|--------------------------------|
| XIRUI SHI, |) | |
| Plaintiff, |) | Civil Action No.: 2:23-cv 0893 |
| Vs. |) | |
| |) | |
| MICHAEL MCGEEVER, in his official capacity; |) | |
| COUNTY OF ALLEGHENY DEPARTMENT OF |) | |
| COURT RECORDS; ALLEGHENY COUNTY |) | |
| SHERIFF OFFICE; KEVIN M. KRAUS, |) | |
| in his official capacity; CHURCHILL |) | |
| BOROUGH; ALEXANDER J. GRAZIANI, in his |) | |
| official capacity; TRI-COG LAND BANK, |) | |
| |) | |
| Defendants. |) | |

MOTION FOR LIMITED APPEARANCE TO CONTEST ORIGINAL SERVICE BY FED EX

Pursuant to Federal Rule of Civil Procedure 4(c), Defendant, Allegheny County Sheriff's Office, by and through its Solicitor, John P. Goodrich, files this Motion in the above-captioned matter and in support thereof sets forth the following:

1. Under Federal Rule of Civil Procedure 4(c)(2), service must be made by:
 - I. Any person who is at least 18 years old and;
 - II. Not a party to the suit
2. In the case *Mochama v. United States*, CV 15-9182-KHV, 2017 WL 770425 (D. Kan. Feb. 27, 2017), parties disputed whether service of a complaint and summons by Fed Ex was valid under Federal Rule of Civil Procedure 4. In the court's ruling on the issue, they ordered the plaintiff to strictly comply with Rule 4(i)(1), requiring the plaintiff to serve the Defendant as explicitly required by the rule and to file proof of such service.
3. In this case, the Plaintiff allegedly served the Defendant, Allegheny County Sheriff's Office, and co-Defendant Allegheny County, on June 28, 2023 through Fed Ex. See Docket #11.
4. The service by Fed Ex is not valid because Rule 4(c) requires that service be made by:

- I. an individual over the age of 18;
- II. who is not a party to the suit.

5. Pro Se Plaintiff alleges that service was effectuated by Fed Ex. However, Fed Ex is not an effective method of service of the Complaint. Therefore, as of this date Kevin M. Kraus, Sheriff of Allegheny County, has not been properly served with service of said Complaint, counsel for Sheriff files this within Motion to contest proper service of the Complaint.

6. Sheriff Kraus, through his counsel objects to any default judgment against him or his office due to improper service of the Complaint.

WHEREFORE it is respectfully requested that the Plaintiff properly serve the complaint on herein Defendant or else Complaint be properly dismissed with prejudice.

Respectfully submitted,

By: /s/ John P. Goodrich, Esquire
PA I.D. No.: 49648
John P. Goodrich, Esquire
Solicitor for the Allegheny County
Sheriff's Office
111 Courthouse
Pittsburgh, PA 15219
(412) 261-4663 (phone)
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| |) | |
| Defendants. |) | |

ORDER OF COURT

AND NOW, to-wit, this ____ day of _____, 2023, it is hereby ORDERED,
ADJUDGED, and DECREED that Defendant Allegheny County Sheriff's Office Motion for
Limited Appearance to Contest Original Service is GRANTED, and Plaintiff must properly serve
the Complaint on herein Defendant or else Complaint be properly dismissed with prejudice.

BY THE COURT:

_____, J.

CERTIFICATE OF SERVICE

I, John P. Goodrich, Solicitor for the Allegheny County Sheriff's Office, in the within action hereby certify that I am duly authorized to make this certification and that, on this date, I did cause to be filed electronically a true and correct copy of the foregoing MOTION FOR LIMITED APPEARANCE TO CONTEST ORIGINAL SERVICE and that it is available for viewing and downloading from the ECF system. Therefore, a true and correct copy of the MOTION FOR LIMITED APPEARANCE TO CONTEST ORIGINAL SERVICE was forwarded to Pro Se Plaintiff identified below via ECF:

Xirui Shi
147 N. Craig St.
Pittsburgh, PA 15213

/s/ John P. Goodrich, Esq.
John P. Goodrich, Esquire
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111 Courthouse
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